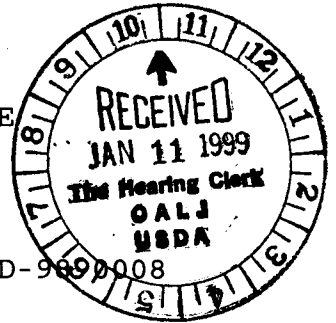


UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE



In re: ) PACA Docket No. D-9890008  
)  
)  
Triple-A-Tomato & )  
Produce Co., Inc., )  
)  
Respondent ) Consent Decision and Order  
)

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq.; hereinafter referred to as the "Act"), instituted by a Complaint filed on January 2, 1998, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture.

The Complaint alleges that during the period October 1996 through June 1997, Respondent Triple-A-Tomato & Produce Co., Inc., (hereinafter "Respondent") failed to make full payment promptly to five sellers of the agreed purchase prices, or balances thereof, in the total amount of \$346,046.20 for 30 lots of perishable agricultural commodities, which it purchased, received and accepted in interstate commerce. A copy of the Complaint was served upon Respondent. The Respondent and Complainant have now agreed to the entry of a Decision and Order as set forth herein. Therefore, pursuant to Section 1.138 of the

Rules of Practices (7 C.F.R. 1.138), the following Decision and Order is issued without further procedure or hearing.

Finding of Fact

1. Respondent is a corporation whose business address was 107-111 Albert Avenue, Newark, New Jersey 07105.

2. Pursuant to the licensing provisions of the PACA, license number 880865 was issued to Respondent on March 21, 1988. This license terminated on March 21, 1998, pursuant to Section 4(a) of the PACA (7 U.S.C. § 499(a)), when Respondent failed to pay the required annual renewal fee.

3. The Secretary has jurisdiction over Respondent and the subject matter involved herein.

4. As set forth more fully in paragraph III of the Complaint, during the period October 1996 through June 1997, Respondent failed to make full payment promptly to five sellers of the agreed purchase prices, or balances thereof, for 30 lots of perishable agricultural commodities purchased, received and accepted in interstate commerce. The total amount that remains unpaid for these purchases is now \$239,462.72.

Conclusions

Respondent has committed flagrant violations of Section 2(4) of the PACA (7 U.S.C. § 499b(4)), by failing to make full payment

promptly with respect to the transactions set forth in Finding of Fact No. 4 above, for which the Order below is issued.

Order

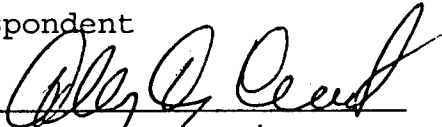
A finding is hereby made that Respondent committed willful, flagrant and repeated violations of Section 2(4) of the Act (7 U.S.C. § 499b(4)), and such finding shall be published.


This order shall become effective 10 days after issuance.

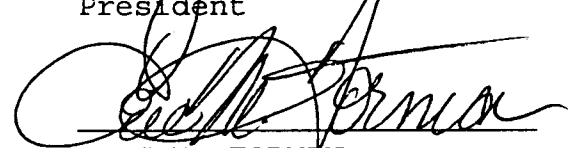
Copies hereof shall be served upon the parties.

TRIPLE-A-TOMATO & PRODUCE CO., INC.

Respondent

by   
ALLAN A. CERRUTO, SR.  
President

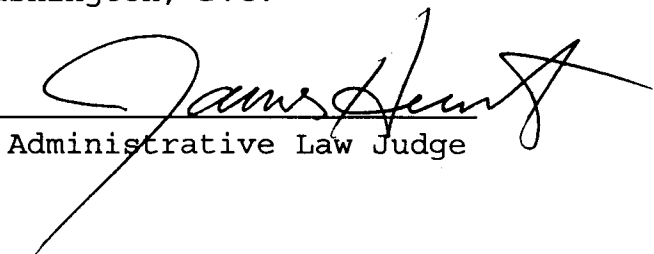
  
PAUL T. GENTILE  
Attorney for Respondent

  
ERIC M. FORMAN  
Associate Deputy Administrator  
Fruit and Vegetable Programs  
Agricultural Marketing Service  
Complainant

  
Eric Paul  
Attorney for Complainant

Issued this 11th day of January, 199<sup>9</sup>

at Washington, D.C.

  
Administrative Law Judge